

FILED

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Ya Thaing.
2 F-26942 C.S.P.
3 P.O. Box 3471
4 Corcoran, CA. 93212-3471.
5

6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

9 Ya Thaing,)
10 Petitioner,)
11 v.)
12)
13 Derral G. Adams, Warden.)
14 Respondent.)

Case No: CV 08 3309 WHA(PR)

Motion for Appointment of
Counsel, Pursuant to,
18 U.S.C. 3006A, and
28 U.S.C. 1915 (d).

15
16 TO THE HONORABLE JUDGE IN THE ABOVE-ENTITLED ACTION :

17 Petitioner, Ya Thaing, Respectfully moves this Court for an Order
18 Appointing Counsel in this action pursuant to 18 U.S.C. 3006A and,
19 28 U.S.C. 1915 (d).

20 The following facts and authorities are offered in support of
21 this motion :

22 1) Petitioner mailed to this Court a 28 U.S.C. § 2254, Habeas
23 Corpus petition on, June 29, 2008.

24 2) A subsequent Order was issued by this Court on, 08-04-08,
25 directing Petitioner to Reply to Respondent's Answer within 30
26 days after service of Respondent's Answer.

27 3) Being untrained in the law, and without proper resources to
28 perfect such a Writ, Petitioner believes without appointed

1 ...counsel, he will be denied a full and fair opportunity to
 2 professionally litigate the complex issues presented in the original
 3 Habeas petition submitted to this Court.

4 4) Petitioner is also a 43 year old indigent of Asian decent and
 5 as a state prisoner, relies on another prisoner's legal assistance to
 6 present the action/writ which without such assistance, would be in
 7 jeopardy of structural and procedural deficiency.

8 5) Because the grounds and facts presented in the Habeas petition
 9 are particularly complex, Petitioner would be unable to meaningfully
 10 address the grounds without professional legal counsel.

11 6) In Dillon v. U.S., 307 F. 3d 445 (9th Cir. 1962), the Ninth
 12 Circuit Court held that, " the appointment of counsel may sometimes
 13 be mandatory even in areas in which the Sixth Amendment does not
 14 apply. This is true when the circumstances of a defendant or the
 15 difficulties involved in presenting a particular matter are such that
 16 a fair and meaningful hearing cannot be had without the aid of
 17 counsel." Id. at 447. (Dillon supra, is still good law).

18 7) The grounds presented in the petition not only require a
 19 determination whether state law and procedures violate Petitioner's
 20 Constitutional right to Due Process and Fair Trial, but whether the
 21 violations were also contrary to United States Supreme Court authority,
 22 which requires the keen and professional mind of a trained attorney.

23 WHEREFORE, in the interest of justice, Petitioner Respectfully
 24 request this Court to :

25 A: Appoint counsel pursuant to Federal statutes and the provisions
 26 stated herein;

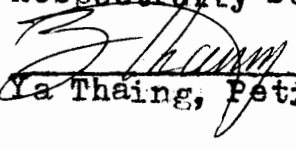
27 B: Grant an Order postponing this action and allow appointed
 28 counsel time to familiarize him/herself with the issues

1 ... presented and prepare a proper reply; and,

2 C: Grant any further relief this Court deems proper.

3
4
5 Dated: August 13, 2008.

Respectfully Submitted,


Ya Thaing, Petitioner.

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF KINGS

(C.C.P. SEC. 446 & 2015.5; 28 U.S.C. 1746)

I, Ya Thaing DECLARE UNDER PENALTY OF PERJURY THAT:
I AM THE Petitioner IN THE ABOVE ENTITLED ACTION. I HAVE
READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND
THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED
THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I
BELIEVE THEM TO BE TRUE.

EXECUTED THIS 13th DAY OF August 2008
AT Corcoran State Prison, Corcoran, CA. 93212.

(SIGNATURE)

(DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I Ya Thaing, AM A RESIDENT OF Corcoran State Prison,
Kings County, in the STATE OF CALIFORNIA, I AM OVER THE AGE OF
EIGHTEEN (18) YEARS OF AGE AND AM / A PARTY OF THE ABOVE INTITLED
ACTION. MY ADDRESS IS P.O. Box 3471, Corcoran, CA. 93212-3471.

ON August 13, 2008. IS SERVED THE FOREGOING DOCUMENTS,
Motion for Appointment of Counsel.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY(S) THEREOF, ENCLOSED IN A
SEALED ENVELOPE(S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES
MAIL, IN A DEPOSIT BOX SO PROVIDED AT

Original to:

United States District Court. *
Northern District of CA. *
Office of the Clerk. *
450 Golden Gate Ave. *
San Francisco, CA. 94102-3483. *

Copy to:

Attorney General of California. *
1300 I Street. P.O. Box 944255 *
Sacramento, CA. 94244-2550. *

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED,
AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING
AND THE PLACE SO ADDRESSED, I DECLARE UNDER PENALTY OF PERJURY THAT THE
FOREGOING IS TRUE AND CORRECT.

DATE: August 13, 2008.

(DECLARANT/PRISONER)

Ya Thaing.
 P-26942 (304-239 U)
 P.O. Box 3471
 Corcoran, CA. 93212-3471.

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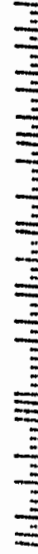


United States District Court
 Northern District of California.
 Office of the Clerk.
 450 Golden Gate Ave.
 San Francisco, California. 94102-3483.

CORCORAN STATE PRISON

Legal Mail.

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09-13-08

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c/p